

The Honorable Ben S. Bernanke
Chairman
Board of Governors, Federal Reserve System
20th Street and Constitution Avenue, NW
Washington, DC 20551

The Honorable Richard Cordray
Director
Consumer Financial Protection Bureau
1500 Pennsylvania Ave. NW
Washington, DC 20220

Mr. Martin Gruenberg
Acting Director
Federal Deposit Insurance Corporation
1776 F Street, NW
Washington, DC 20006

Mr. John Walsh
Acting Comptroller
Office of the Comptroller of the Currency
250 E Street, SW
Washington, DC 20219

cc: The Honorable Sarah Bloom Raskin
The Honorable Elizabeth A. Duke
The Honorable Daniel K. Tarullo

February 22, 2012

Dear Chairman Bernanke, Director Cordray, Acting Chairman Gruenberg, and Acting Comptroller Walsh:

We write to urge the federal regulators of our nation's banks to take immediate action to stop banks from making unaffordable, high-cost payday loans.

Wells Fargo, US Bank, Fifth Third, Regions, and Guaranty Bank's deposit "advance" loans are structured just like loans from payday loan stores – carrying a high-cost combined with a short-term balloon repayment. Research has long shown that these loans trap borrowers in a cycle of expensive long-term debt, causing serious financial harm to borrowers, including increased likelihood of bankruptcy, paying credit card debts and other bills late, delayed medical care, and loss of basic banking privileges because of repeated overdrafts.

Further, payday lending by banks undermines state law in the states that have prohibited or imposed meaningful restrictions on payday loans in recent years, or that have never allowed payday loans to be part of their marketplace. It also undermines provisions of the Military Lending Act aimed at protecting service members from payday loans.

For customers with direct deposit of wages or public benefits, the banks will advance the pay in increments for a fee, ranging from \$7.50 to \$10 per \$100 borrowed. The bank deposits the loan amount directly into the customer's account and then repays itself the loan amount, plus the fee, directly from the customer's next incoming direct deposit. If direct deposits are not sufficient to repay the loan within 35 days, the bank repays itself anyway, even if the repayment overdraws the consumer's account, triggering more costs through overdraft fees.

Non-bank payday borrowers routinely find themselves unable to repay the loan in full plus meet their expenses for the next month without taking out another payday loan. A recent analysis of

actual checking account activity by the Center for Responsible Lending¹ finds the same is true with bank payday loans:

- Bank payday loans typically carry an annual percentage rate (APR) of 365 percent based on the typical loan term of ten days;²
- On average, bank payday borrowers are in debt for 175 days per year;³
- Many borrowers take out ten, 20, or even 30 or more bank payday loans in a year;⁴
- Many bank payday borrowers are Social Security recipients, and the banks take significant portions of their monthly checks immediately for repayment of bank payday loans.⁵

These findings further demonstrate that, as in the storefront payday context, lender “protections” like “installment options” and “cooling off periods” simply do not stop the cycle of repeat loans.

There are clear signals that bank payday lending will grow rapidly without prompt regulatory action. Fiserv, Inc., a provider of software systems to the financial industry, has developed a bank payday software product it calls “Relationship Advance.” Fiserv is reporting significant interest in the product: “The pipeline is extremely strong. We’ve had some very nice mid-tier signings over the last three, four months and we see this as an interesting driver of ... high-quality recurring revenue”⁶

Fiserv’s marketing of the Relationship Advance product has included promises that, within two years, revenue from the product “will be greater than all ancillary fee revenue combined”⁷ and that the product will result in little-to-no “overdraft revenue cannibalization;”⁸ that is to say, it will add another high fee source without reducing overdraft fee revenue.

Ultimately, payday loans erode the assets of bank customers and, rather than promote savings, make checking accounts unsafe for many customers. They lead to uncollected debt, bank account closures, and greater numbers of unbanked Americans. All of these outcomes are inconsistent with both consumer protection and the safety and soundness of financial institutions.

Please move quickly to ensure that payday lending by banks does not become more widespread, and to ensure that those banks currently making payday loans stop offering this inherently dangerous product.

We appreciate your consideration of our concerns.

Sincerely,

National Organizations

AFL-CIO

Americans for Financial Reform

Center for Responsible Lending

Church of England Ethical Investment Advisory Group

Consumer Action

Consumer Federation of America

Consumers Union

Demos

First Nations Development Institute

Green America

Jesuit Conference

Jewish Reconstructionist Federation

Leadership Conference for Civil and Human Rights

Main Street Alliance

Missionary Oblates, US Province

NAACP

National Advocacy Center of the Sisters of the Good Shepherd

National Association of Consumer Advocates

National Community Reinvestment Coalition

National Consumer Law Center (on behalf of its low income clients)

National Fair Housing Alliance

National People's Action

NETWORK, A National Catholic Social Justice Lobby

Mercy Investment Services

Pax World Funds

PICO National Network

Progressive Asset Management

Responsible Endowments Coalition

Sisters of Charity of the Blessed Virgin Mary

Sojourners

The Greenlining Institute

Trillium Asset Management

United Church of Christ Justice and Witness Ministries

US PIRG

State and Community Organizations

AccountAbility Minnesota
Action for Children North Carolina
Action North Carolina
Adrian Dominican Sisters (Seattle, WA)
Alabama Appleseed
Alliance to Develop Power (Springfield, MA)
American Friends Service Committee - South East New England Office
Aquinas Associates (Dallas, TX)
Arizona Advocacy Network
Arizona Community Action Association
Arizonans for Responsible Lending Coalition
Arkansans Against Abusive Payday Lending
Arkansas Advocates for Children and Families
Arkansas Community Organizations
Baltimore CASH Campaign (Baltimore, MD)
Bell Policy Center (CO)
Better Choices for a Better Louisiana Coalition
California Church IMPACT
California Reinvestment Coalition
Casa Latina (Seattle, WA)
Center for Economic Integrity (Tuscon, AZ)
Central Alabama Fair Housing Center (Montgomery, AL)
Chhaya CDC (Jackson Heights, NY)
Children's Alliance (WA)
Christopher Reynolds Foundation (New York, NY)
Citizen Action Illinois
CitySquare (Dallas, TX)
Cleveland Housing Network (Cleveland, OH)
Coalition of Religious Communities (Salt Lake City, UT)
Coalition on Homelessness & Housing in Ohio
Coastal Enterprises Institute (ME)
Coloradans for Payday Lending Reform
Colorado Progressive Coalition

Communities Creating Opportunity (Kansas City, MO)
Communities United for Action (Cincinnati, OH)
Community Financial Resources (CA)
Community Union (Van Nuys, CA)
Connecticut Association for Human Services
Consumer Credit Counseling Service of Forsyth County (Winston-Salem, NC)
Consumer Credit Counseling Service of Greater Greensboro (Greensboro, NC)
Courage Campaign (CA)
Credit Counseling Agencies of North Carolina Association
Democratic Processes Center, Inc (Tucson, AZ)
District Council 37 (New York), AFSCME (New York, NY)
Dominican Sisters of Hope (Ossining, NY)
Dominican Sisters of Sparkill (Sparkill, NY)
East LA Community Corporation (Los Angeles, CA)
Economic Fairness Oregon
EMERGE Community Development (Minneapolis, MN)
Empire Justice Center (NY)
Fair Housing Center (Toledo, OH)
Fair Housing Council of Northern New Jersey
Faith Action Network (WA)
Fifth Avenue Committee (New York, NY)
Financial Protection Law Center (NC)
Florida Consumer Action Network
Florida Minority Community Reinvestment Coalition
Foreclosure Relief Law Project (MN)
Friends Fiduciary (Philadelphia, PA)
Fuse Washington
Genesee Co-op Federal Credit Union (Rochester, NY)
Glenmary Home Missioners (Fairfield, OH)
GRO-Grassroots Organizing (MO)
Habitat for Humanity of Mahoning County (Sturthers, OH)
Heartland Alliance for Human Needs (IL)
Housing Action Coalition (RI)
Housing Action Illinois
Housing Research & Advocacy Center (Cleveland, OH)

IRON (IL and IN)
Illinois People's Action
Insight Center for Community Economic Development (Oakland, CA)
Interfaith Housing Center of the Northern Suburbs (Winnetka, IL)
Iowa Citizens for Community Improvement
ISAIAH (Minneapolis, MN)
Jesuit Social Research Institute, Loyola University (New Orleans, LA)
Jewish Community Action (MN)
LeadingAge Ohio
Legal Assistance Resource Center of Connecticut
Legal Services of Southern Piedmont (Charlotte, NC)
Lorain County Urban League (Elyria, OH)
Louisiana Budget Project
Lutheran Public Policy Office of Washington
Lutheran Social Service of Minnesota
Maine Center for Economic Policy
Maine Equal Justice Partners
Maine People's Alliance
Maine Women's Lobby
Maine's Majority
Mainstream Oklahoma Baptists
Marine Corps Installations East
Maryland Budget and Tax Policy Institute
Maryland CASH Campaign
Maryland Consumer Rights Coalition
MDC (Durham, NC)
Memphis Responsible Lending Coalition (Memphis, TN)
Metanoia Centers for Innovation (Champaign, IL)
MFY Legal Services (New York, NY)
Miami Valley Fair Housing Center (Dayton, OH)
Mid-Minnesota Legal Assistance
Midwest Coalition for Responsible Investment (St. Louis, MO)
Minnesota Community Action Partnership
Minnesotans for a Fair Economy
Mission Asset Fund (San Francisco, CA)

Missionary Servants of the Most Holy Trinity (Silver Spring, MD)
Montana Community Foundation
National Association of Social Workers-North Carolina Chapter
Neighborhood Economic Development Advocacy Project (NEDAP) (New York, NY)
Neighbors Helping Neighbors (New York, NY)
Neighborworks Blackstone River Valley (RI)
Neighborworks Rochester (Rochester, NY)
New Baptist Covenant Midwest Region
New Hampshire Legal Assistance
North Carolina Community Development Initiative
North Carolina Council of Churches
North Carolina Housing Coalition
North Carolina Institute for Minority Economic Development
North Carolina Justice Center
North Carolina State AFL-CIO
Northeast Ohio Legal Services
Oakland Allen Temple Church (Oakland, CA)
Office of Peace and Justice, Sinsinawa Dominican Sisters (Sinsinawa, WI)
Ohio Conference of Seventh-Day Adventists
Ohio Conference Seventh-Day Adventist Schools
Ohio Poverty Law Center
Oklahoma Policy Institute
OnTrack Financial Education & Counseling (Asheville, NC)
Pisgah Legal Services (NC)
Policy Matters Ohio
Pratt Area Community Council (Brooklyn, NY)
Progress Florida
Progress Mass (MA)
Progress Missouri
Progress Ohio
Progress Texas
ProgressNow Colorado
ProgressNow Nevada
ProgressNow New Mexico
Reinvestment Partners (NC)

Rensselaer County Housing Resources (Troy, NY)
Rural Dynamics (MT)
SEIU Local 26 (Minneapolis, MN)
Sisters of Charity of Saint Elizabeth (Convent Station, NJ)
Sisters of St. Francis of Assisi (St. Francis, WI)
Sisters of St. Francis of Philadelphia (Philadelphia, PA)
Sisters of St. Francis of Tiffin, Ohio
Sisters of St. Joseph of Springfield, Massachusetts
South Carolina Appleseed Legal Justice Center
Southsiders Organized for Unity and Liberation (Chicago, IL)
St. Michael's Parish (Providence, RI)
Statewide Poverty Action Network (WA)
Syracuse United Neighbors (Syracuse, NY)
Take Action Minnesota
Teamsters Local 237 (New York, NY)
The Economic Progress Institute (RI)
The Financial Clinic (New York, NY)
The Support Center (NC)
Toledo First Church of Seventh Day Adventists (Toledo, OH)
Triangle Congregations Associations and Neighborhoods (Durham, NC)
Tri-State Coalition for Responsible Investment (Montclair, NJ)
United Federal Credit Union (NY)
United Way of Erie County (Erie, OH)
Ursuline Sisters of Tildonk, U.S. Province (NY)
Virginia Citizen's Consumer Council
Virginia Poverty Law Center
Virginians Against Payday Lending
VOCAL – NY (Brooklyn, NY)
Washington State Labor Council, AFL-CIO
Western New York Law Center
Woodstock Institute (Chicago, IL)
Xaverian Brothers (Baltimore, MD)

Individual Advocates (organization provided for identification purposes)

Alan Reberg, Raleigh Mennonite Church (Raleigh, NC)
Amy Greer (RI)
Anders Blewett, State Senator (MT)
Anne Hansen Gathje, Hansen Law LLC (St. Paul, MN)
Benjamin J. Thorpe, Hispanic College Fund (Washington, DC)
Bill Lerman, Jewish Community Action (Minneapolis, MN)
Billie Dougherty, AARP Volunteer Advocacy Team (AR)
Carol Bromer, Jewish Community Action (Minneapolis, MN)
Caroline Peattie, Fair Housing of Marin (Marin, CA)
Connie Russell, HOPE NC (Raleigh, NC)
Daniel P. Rhodes, Enmaus Way Church (Durham, NC)
Debbie McCune Davis, State Senator (AZ)
Donna Goodell, New Horizons Community Learning Center (Newark, OH)
Doug Seay Committee on Church and Society, North Alabama Conference, United Methodist Church
Douglas Micko, The Schaefer Law Firm LLC (Minneapolis, MN)
E. Michelle Drake, Attorney at Law (Minneapolis, MN)
Fr. Gerry Creedon, Holy Family Catholic Church (Dale City, VA)
Idalia Fernandez, Hispanic College Fund (Washington, DC)
Jean Stultz, Bragg Mutual Federal Credit Union (NC)
Jonathan Motl, Morrison, Motl and Sherwood (Helena, MT)
Judith Wylie-Rosset, UU Congregation at Shelter Rock (Manhasset, NY)
Kai Richter, Attorney At Law (Minneapolis, MN)
Margaret Weber, Congregation of St. Basil
Marisa Katz, PLLP (Minneapolis, MN)
Matthew Dunbar, Habitat for Humanity, (New York, NY)
Michael Warren, Washington State Alliance for Retired Persons
Nancy Kenyon, Fair Housing Marin (Marin, CA)
Nicholas DiNardo (Cincinnati, OH)
Peter F. Barry, Consumer Rights Lawyer (Minneapolis, MN)
Louis Ruis, State Representative (KS)
Rev. Dr. Sharon Stanley, Fresno Interdenominational Refugee Ministries (Fresno, CA)
Rev. Londia Granger Wright, St. Luke's United Methodist Church (Kansas City, MO)
Rev. Stephen Copley, Arkansas Interfaith Alliance

Richard A. Fisher (Cleveland, TN)

Richard Fuller, The Schaefer Law Firm LLC (Minneapolis, MN)

Rita L. Haynes, President and CEO of Faith Community United Credit Union, Retired (OH)

Robert Cloar, Attorney at Law (Fort Smith, AR)

Sam Glover, The Glover Law Firm, LLC (Minneapolis, MN)

Sonia Kowal; Zevin Asset Management LLC (Boston, MA)

Stephanie Fairchild, Ohio Valley ESC (Marietta, OH)

Theresa Watson, Community Development, City of Jacksonville (Jacksonville, AK)

Tim Iglesias, Professor of Law, University of San Francisco School of Law

¹ Center for Responsible Lending, "Big Bank Payday Loans," CRL Research Brief, July 2011, *available at* <http://www.responsiblelending.org/payday-lending/research-analysis/big-bank-payday-loans.pdf>

² This APR is based on a fee of \$10 per \$100 borrowed, which most banks making payday loans charge. One bank charges \$7.50 per \$100 borrowed.

³ "Big Bank Payday Loans" at 5. The analysis found that, on average, bank payday borrowers have 16 loans and, assuming these loans were not concurrent, stay in payday debt for 175 days per year. The average loan duration for all panelists was 10.7 days.

⁴ *Id.*

⁵ *Id.*

⁶ Fiserv Investor Conference, Oct. 11, 2011.

⁷ Fiserv Relationship Advance program description available at <http://www.relationshipadvance.com/>; *see also* Fiserv unveils Relationship Advance: *Full-service solution provides a safer, more cost-effective alternative to courtesy overdraft programs*, Press Release (Nov. 18, 2009), *available at* <http://investors.fiserv.com/releasedetail.cfm?ReleaseID=425106>; Jeff Horwitz, *Loan Product Catching On Has a Couple of Catches*, American Banker, Oct. 5, 2010.

⁸ <http://www.relationshipadvance.com/>, as visited on August 2011.